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10 11377 West Olympic Boulevard

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14 725 South Figueroa Street, Suite 2500

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15 Telephone: (213) 689-0404

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16 Attorneys for Defendant and Cross-Complainant

17 CITY OF BURBANK, including the POLICE

DEPARTMENT OF THE CITY OF BURBANK

18 (erroneously sued as an independent entity named

"BURBANK POLICE DEPARTMENT")

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 FOR THE COUNTY OF LOS ANGELES

21  
22 OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN; ELFEGO  
23 RODRIGUEZ; and JAMAL CHILDS,

Plaintiffs,

24 v.

25 BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; and DOES 1 through 100,  
26 inclusive,

Defendants.

27 And Related Cross-Action.  
28

Case No. BC 414602

NOTICE OF TAKING DEPOSITION OF  
ERIC MICHAEL CAP AND REQUEST FOR  
PRODUCTION OF DOCUMENTS

File Date: May 28, 2009

Trial Date: August 25, 2011

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE the deposition of ERIC MICHAEL CAP will be taken by  
3 defendant City of Burbank on February 1, 2011, at 10:00 a.m. at 150 N. Third Street, Burbank,  
4 California, before a person duly authorized to administer oath, and if not completed, the taking of  
5 the same will continue the following business day, until completed.

6 PLEASE TAKE FURTHER NOTICE that the deposition of Mr. Capp will be videotaped  
7 pursuant to CCP section 2025.340.

8 PLEASE TAKE FURTHER NOTICE that the deponent is required to bring with him to  
9 the deposition the following documents:

10 DEFINITIONS

11 A. "WRITINGS" means and includes any handwriting, typewriting, printing, digital  
12 or electronic, recordation, photostating, photographing, transmitting by electronic mail or  
13 facsimile, and every other means of recording upon any tangible thing, any form of  
14 communication or representation, including letters, words, pictures, sounds, symbols, or  
15 combinations thereof and any record thereby created, regardless of the manner in which the  
16 record has been stored.

17 B. "YOU" or "YOUR" shall include you, your agents, your employees, your  
18 attorneys, your accountants, your investigators and anyone else under your direction and control  
19 or otherwise acting on your behalf.

20 DOCUMENTS

- 21 1. All WRITINGS identifying the source of any materials, edited or not, which form the  
22 basis of the item(s) uploaded by YOU or anyone acting on YOUR behalf to YouTube on  
23 July 11, 2010.
- 24 2. All originals and copies of the recordings, before and after editing, which form the basis  
25 of the item(s) uploaded by YOU or anyone acting on YOUR behalf to YouTube on July  
26 11, 2010.
- 27  
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- 1       3. All WRITINGS or communications with any person pertaining to the source of any  
2       recordings, before and after editing, which form the basis of the item(s) uploaded by YOU  
3       or anyone acting on YOUR behalf to YouTube on July 11, 2010.
- 4       4. All WRITINGS reflecting communications and actual communications between YOU or  
5       anyone acting on YOUR behalf with Omar Rodriguez, Solomon Gresen, Steven Rheuban,  
6       Greg Smith, Christopher Brizzolara, Bill Taylor, Neil Gunn, Neil Gunn, Jr., Tina Gunn,  
7       Leslie Cates, Dawna Kendrick, Jim Carisle, Steve Karagosian, Cindy Guillen, Anthony  
8       Valento, Thor Merich, Elfego Rodriguez, Jamal Childs and any representative employee  
9       of Semichorus or Wordpress.
- 10      5. Any WRITINGS or recording on which any past or present Burbank Police officer can be  
11      heard or seen.
- 12      6. Any WRITINGS or recording which YOU or anyone acting on YOUR behalf have been  
13      requested to edit on which any past or present Burbank Police officer can be heard or  
14      seen.
- 15      7. Any WRITINGS or recording provided to YOU or anyone acting on YOUR behalf on  
16      which any past or present Burbank police officer can be heard or seen.
- 17      8. Any invoices for services rendered by YOU or anyone acting on YOUR behalf for the  
18      editing, copying, uploading, or altering of any recording on which any past or present  
19      Burbank police officer can be heard or seen.
- 20      9. Any WRITINGS evidencing payments for services rendered by YOU or anyone acting on  
21      YOUR behalf for the editing, copying, uploading, or altering of any recording on which  
22      any past or present Burbank police officer can be heard or seen.

1           The deponent is not a party to this action and will be served with the original of the  
2 attached subpoena.

3 DATED: January 19, 2011

4           Respectfully submitted,

5 DENNIS A. BARLOW  
6 City Attorney

7 By: 

8 Carol A. Humiston  
9 Sr. Assistant City Attorney  
10 Attorney for Defendant  
11 CITY OF BURBANK  
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Dennis A. Barlow, SBN 63849</b> <b>Burbank City Attorney's Office</b> <b>275 E. Olive Avenue</b> <b>Burbank, CA 91502</b>		FOR COURT USE ONLY
TELEPHONE NO.: <b>818-238-5707</b>	FAX NO. (Optional): <b>818-238-5724</b>	
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>BURBANK POLICE DEPT. AND CITY OF BURBANK</b>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>Los Angeles</b> STREET ADDRESS: <b>111 N. Hill Street</b> MAILING ADDRESS: <b>111 N. Hill Street</b> CITY AND ZIP CODE: <b>Los Angeles, CA 90012</b> BRANCH NAME: <b>Central District</b>		
PLAINTIFF/PETITIONER: <b>OMAR RODRIGUEZ; CINDY GUILLEN-GOMEZ</b> <b>STEVE KARAGIOSIAN; ELFEGO RODRIGUEZ; JAMAL CHILDS</b> DEFENDANT/RESPONDENT: <b>BURBANK POLICE DEPARTMENT; ET AL.</b>		
<b>DEPOSITION SUBPOENA</b> <b>FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS</b>		CASE NUMBER: <b>BC414602</b>

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

**ERIC MICHAEL CAP**  
**649 BETHANY ROAD, BURBANK, CALIFORNIA 91504**

1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:


Date: February 1, 2011 Time: 10:00 a.m. Address: City of Burbank Community Services Building Rm. 101  
 150 N Third Street, Burbank, CA 91502

- ☐ As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in item 4. (Code Civ. Proc., § 2025.230.)
  - ☒ You are ordered to produce the documents and things described in item 3.
  - ☒ This deposition will be recorded stenographically ☐ through the instant visual display of testimony and by ☒ audiotape ☒ videotape.
  - ☐ This videotape deposition is intended for possible use at trial under Code of Civil Procedure section 2025.620(d).
2. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
3. The documents and things to be produced and any testing or sampling being sought are described as follows: **SEE ATTACHMENT A**
- ☐ Continued on Attachment 3.
4. If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are described as follows:
- ☐ Continued on Attachment 4.
5. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.
6. At the deposition, you will be asked questions under oath. Questions and answers are recorded stenographically at the deposition; later they are transcribed for possible use at trial. You may read the written record and change any incorrect answers before you sign the deposition. You are entitled to receive witness fees and mileage actually traveled both ways. The money must be paid, at the option of the party giving notice of the deposition, either with service of this subpoena or at the time of the deposition. Unless the court orders or you agree otherwise, if you are being deposed as an individual, the deposition must take place within 75 miles of your residence or within 150 miles of your residence if the deposition will be taken within the county of the court where the action is pending. The location of the deposition for all deponents is governed by Code of Civil Procedure section 2025.250.

**DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF \$500 AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.**

Date issued: JANUARY 13, 2011

Dennis A. Barlow, SBN 63849

  
 (SIGNATURE OF PERSON ISSUING SUBPOENA)  
**CITY ATTORNEY**

(TYPE OR PRINT NAME)

(Proof of service on reverse)

(TITLE)

Page 1 of 2

## **ATTACHMENT "A"**

### **DEFINITIONS**

A. "WRITINGS" means and includes any handwriting, typewriting, printing, digital or electronic, recordation, photostating, photographing, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof and any record thereby created, regardless of the manner in which the record has been stored.

B. "YOU" or "YOUR" shall include you, your agents, your employees, your attorneys, your accountants, your investigators and anyone else under your direction and control or otherwise acting on your behalf.

### **DOCUMENTS**

1. All WRITINGS identifying the source of any materials, edited or not, which form the basis of the item(s) uploaded by YOU or anyone acting on YOUR behalf to YouTube on July 11, 2010.
2. All originals and copies of the recordings, before and after editing, which form the basis of the item(s) uploaded by YOU or anyone acting on YOUR behalf to YouTube on July 11, 2010.
3. All WRITINGS or communications with any person pertaining to the source of any recordings, before and after editing, which form the basis of the item(s) uploaded by YOU or anyone acting on YOUR behalf to YouTube on July 11, 2010.
4. All WRITINGS reflecting communications and actual communications between YOU or anyone acting on YOUR behalf with Omar Rodriguez, Solomon Gresen, Steven Rheuban, Greg Smith, Christopher Brizzolara, Bill Taylor, Neil Gunn, Neil Gunn, Jr., Tina Gunn, Leslie Cates, Dawna Kendrick, Jim Carisle, Steve Karagosian, Cindy Guillen, Anthony Valento, Thor Merich, Elfego Rodriguez, Jamal Childs and any representative employee of Semichorus or Wordpress.

5. Any WRITINGS or recording on which any past or present Burbank Police officer can be heard or seen.
6. Any WRITINGS or recording which YOU or anyone acting on YOUR behalf have been requested to edit on which any past or present Burbank Police officer can be heard or seen.
7. Any WRITINGS or recording provided to YOU or anyone acting on YOUR behalf on which any past or present Burbank police officer can be heard or seen.
8. Any invoices for services rendered by YOU or anyone acting on YOUR behalf for the editing, copying, uploading, or altering of any recording on which any past or present Burbank police officer can be heard or seen.
9. Any WRITINGS evidencing payments for services rendered by YOU or anyone acting on YOUR behalf for the editing, copying, uploading, or altering of any recording on which any past or present Burbank police officer can be heard or seen.

PLAINTIFF/PETITIONER: OMAR RODRIGUEZ; CINDY GUILLEN-GOMEZ  
 STEVE KARAGIOSIAN; ELFEGO RODRIGUEZ; JAMAL CHILDS  
 DEFENDANT/RESPONDENT: BURBANK POLICE DEPARTMENT; ET AL.

CASE NUMBER:

BC414602

**PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE  
 AND PRODUCTION OF DOCUMENTS AND THINGS**

1. I served this *Deposition Subpoena for Personal Appearance and Production of Documents and Things* by personally delivering a copy to the person served as follows:

a. Person served (name): *ERIC MICHAEL CAP*  
 b. Address where served: *CHASE BANK PARKING LOT  
 840 SAN FERNANDO BLVD.*

c. Date of delivery: *1-15-11*

d. Time of delivery: *1:36 pm*

e. Witness fees and mileage both ways (check one):

- (1) ☒ were paid. Amount: ..... \$ *50.00/00*  
 (2) ☐ were not paid.  
 (3) ☐ were tendered to the witness's  
 public entity employer as  
 required by Government Code  
 section 68097.2. The amount  
 tendered was (specify): ..... \$

f. Fee for service: ..... \$

2. I received this subpoena for service on (date): *1/11/2011*

3. Person serving:

- a. ☐ Not a registered California process server  
 b. ☐ California sheriff or marshal  
 c. ☐ Registered California process server  
 d. ☐ Employee or independent contractor of a registered California process server  
 e. ☒ Exempt from registration under Business and Professions Code section 22350(b)  
 f. ☐ Registered professional photocopier  
 g. ☐ Exempt from registration under Business and Professions Code section 22451  
 h. Name, address, telephone number, and, if applicable, county of registration and number:

*GARY PRINCE*

**PRINCE INVESTIGATIONS,  
 INC**

6520 Platt Avenue # 721

West Hills, CA 91307

*818-716-5859*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)  
 I certify that the foregoing is true and correct.

Date: *1-15-11*

Date:

  
 (SIGNATURE)

  
 (SIGNATURE)



PROOF OF SERVICE

STATE OF CALIFORNIA )

)ss.

COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years old and not a party to the within action. My business address is 275 E. Olive Avenue, Burbank, California 91502.

On January 19, 2011, I served the foregoing document described as: **NOTICE OF TAKING DEPOSITION OF ERIC MICHAEL CAP AND REQUEST FOR PRODUCTION OF DOCUMENTS** on all interested parties in said action:

( ) (BY MAIL) by placing ( ) the original ( ) a true copy thereof enclosed in a sealed envelope addressed as follows:

( ) (BY FACSIMILE TRANSMISSION) from FAX No. (818) 238-5724 to the fax numbers listed below. The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e), I caused the machine to print a transmission confirmation report which showed the document was transmitted and a copy is attached.

(XX ) (BY OVERNIGHT MAIL) by placing a true copy thereof, enclosed in a sealed envelope or package designated by Federal Express addressed as follows and delivered it to an authorized driver/receiving station authorized by Federal Express to receive documents with delivery fees prepaid.

Solomon E. Gresen  
Steven V. Rheuban  
Law Offices of Rheuban & Gresen  
15910 Ventura Boulevard, Suite 1610  
Encino, California 91436

( ) (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand to the offices of the addressee.


( ) (VIA ELECTRONIC SERVICE) on the interested parties to this action by submitting an electronic version of the document via FTP upload to LexisNexis/FileAndServe pursuant to the Court' Order.

( ) I deposited such envelope in the mail at Burbank, California. The envelope was mailed with postage thereon fully prepaid.

( ) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal service on that same day with postage thereon fully prepaid at Burbank, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed January 19, 2011, at BURBANK, CALIFORNIA

  
Lusirje Arutyunyan